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U.S. Department of Homeland Security

Bureau of Citizenship and Immigration Services

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ADMINISTRATIVE APPEALS OFFICE

425 Eye Street N.W.

BCIS, AAO, 20 MASS, 3/F

Washington, D.C. 20536

File: [REDACTED] Office: VERMONT SERVICE CENTER

Date: AUG 29 2003

IN RE: Petitioner:  
Beneficiary:

Petition: Petition for Special Immigrant Religious Worker Pursuant to Section 203(b)(4) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(4), as described at Section 101(a)(27)(C) of the Act, 8 U.S.C. § 1101(a)(27)(C)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

PHOTOCOPY

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. § 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Bureau of Citizenship and Immigration Services (Bureau) where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. *Id.*

Any motion must be filed with the office that originally decided your case along with a fee of \$110 as required under 8 C.F.R. § 103.7.



Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The immigrant visa petition was denied by the Director, Vermont Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner is a church. It seeks classification of the beneficiary as a special immigrant religious worker pursuant to section 203(b)(4) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(4), in order to employ her as an evangelist missionary at a weekly salary of \$350.

The director denied the petition, finding that the petitioner failed to establish that the beneficiary has met the educational requirements for becoming an evangelist missionary or that the beneficiary has the requisite two years of experience as an evangelist missionary.

On appeal, the pastor of the petitioning church submits a letter that states that since her appointment to become a missionary on March 15, 1998, the beneficiary has been working 40 hours a week plus her worship service duties as an evangelist missionary. The pastor further indicates that the beneficiary was certified as an evangelist missionary the day of her appointment on March 15, 1998, therefore, she was qualified as of that date.

Section 203(b)(4) of the Act provides classification to qualified special immigrant religious workers as described in section 101(a)(27)(C) of the Act, 8 U.S.C. § 1101(a)(27)(C), which pertains to an immigrant who:

- (i) for at least 2 years immediately preceding the time of application for admission, has been a member of a religious denomination having a bona fide nonprofit, religious organization in the United States;

- (ii) seeks to enter the United States--

- (I) solely for the purpose of carrying on the vocation of a minister of that religious denomination,

- (II) before October 1, 2003, in order to work for the organization at the request of the organization in a professional capacity in a religious vocation or occupation, or

- (III) before October 1, 2003, in order to work for the organization (or for a bona fide organization which is affiliated with the religious denomination and is exempt from taxation as an organization described in section 501(c)(3) of the Internal Code of 1986) at the request of the organization in a religious vocation or occupation; and

(iii) has been carrying on such vocation, professional work, or other work continuously for at least the 2-year period described in clause (i).

The petitioner in this matter is a church affiliated with the Church of God in Christ denomination. The beneficiary is a 48-year old native and citizen of Guyana. The petitioner failed to state the size of its congregation or the number of employees. It submitted evidence that it has the appropriate tax exempt recognition. The beneficiary entered the United States as a B-2 nonimmigrant visitor for pleasure on November 23, 1995.

At issue in this proceeding is whether the beneficiary had been continuously carrying on a religious occupation for the two years preceding the filing of the petition.

8 C.F.R. § 204.5(m)(1) states, in pertinent part, that:

All three types of religious workers must have been performing the vocation, professional work, or other work continuously (either abroad or in the United States) for at least the two year period immediately preceding the filing of the petition.

The petition was filed on June 12, 2000. Therefore, the petitioner must establish that the beneficiary was continuously carrying on a religious occupation since at least June 12, 1998.

Initially, the petitioner submitted a letter from its pastor stating that it intended to hire the beneficiary as soon as it received approval from the INS (now the Bureau). The petitioner further indicated that it had not paid the beneficiary wages in the past, but had been providing her with shelter, food, transportation and clothing since her entry into the United States. The petitioner wrote the Bureau that the beneficiary had worked with the petitioning church's bible school.

The director noted that the petitioner failed to state the exact dates of the beneficiary's employment and concluded that the record does not establish that the beneficiary has the required two years of experience in the religious occupation.

On appeal, the petitioning church's pastor wrote the Bureau that the beneficiary had been working for the petitioner as an evangelist missionary since March 15, 1998.

In review, the petitioner has not met his burden of proof. The evidence on the record is conflicting. According to the evidence on the record, the beneficiary had been working for the petitioner as a teacher's assistant in the bible school and with the missionary board in conducting prayers and worship songs, visiting the sick and shut-in members. In another letter, the petitioner

indicates that the beneficiary has been working as an evangelist missionary on a full-time basis since March 1998. The petitioner provided the Bureau with distinct job descriptions for the religious education teacher and the evangelist missionary positions. Each job description states that the positions are full-time. The petitioner failed to reconcile the conflicting evidence. It is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

The statute and its implementing regulations require that a beneficiary had been continuously carrying on the religious occupation specified in the petition for the two years preceding filing. Because the statute requires two years of continuous experience in the same position for which special immigrant classification is sought, the Bureau interprets its own regulations to require that, in cases of lay persons seeking to engage in a religious occupation, the prior experience must have been full-time salaried employment in order to qualify.

In the absence of W-2's and certified income tax returns, the petitioner failed to establish that it had employed the beneficiary for the requisite two years.

The second issue to be analyzed in this proceeding is whether the petitioner established that the beneficiary met the qualifications for the proffered position.

The director determined that the petitioner had failed to establish that the beneficiary had satisfied all of its stated academic qualifications for the proffered position.

In reply to a request for additional evidence, the petitioner stated that:

The Evangelist Missionary is required to receive all Core courses as outlined on our Master Sheet of required lessons. These are General Bible, New Testament Synthesis, Dispensations and Covenants, Christian Workers Course, Simplified Homiletics, Evangelism.

In review, the petitioner failed to establish that the beneficiary completed the above listed coursework and thus was qualified for the proffered position.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, the petitioner has not sustained that burden.

**ORDER:** The appeal is dismissed.